

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TEODORA VELAZQUEZ, et al.,

No. C-13-1404 MMC

Plaintiffs,

**ORDER DENYING PLAINTIFFS' MOTION  
FOR PREVAILING PARTY ATTORNEYS'  
FEES; VACATING HEARING**

v.

WASTE MANAGEMENT NATIONAL  
SERVICES, INC., et al.,

Defendants.

Before the Court is plaintiffs' "Motion for Prevailing Party Attorneys' Fees Under Rule 11," filed August 10, 2013. Defendants have filed opposition, to which plaintiffs have replied. Having read and considered the papers filed in support of and in opposition to the motion, the Court deems the matter suitable for decision on the parties' respective written submissions, VACATES the hearing scheduled for September 20, 2013, and rules as follows.

On June 18, 2013, defendants filed a "Motion for Sanctions Pursuant to F.R.C.P. 11 and/or 28 U.S.C. § 1927," in which defendants argued that, by joining in a single complaint what were in actuality thirteen separate actions brought by thirteen separate individuals, plaintiffs had violated, inter alia, Rule 11 of the Federal Rules of Civil Procedure. By order filed July 23, 2013, the Court denied defendants' motion.

1 Plaintiffs, as the parties who prevailed on the Rule 11 motion, now seek an award of  
2 attorney's fees incurred in opposing the motion. See Fed. R. Civ. P. 11(c)(2) (providing "[if]  
3 warranted, the court may award to the prevailing party the reasonable expenses, including  
4 attorney's fees, incurred for the motion"). In particular, plaintiffs assert, defendants had no  
5 basis for filing their Rule 11 motion as the arguments made therein as to misjoinder were,  
6 according to plaintiffs, "risible." (See Pls.' Reply at 2:21-22.)

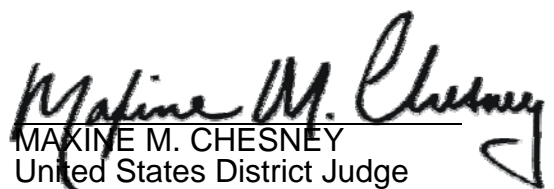
7 Contrary to plaintiffs' characterization, however, defendants' arguments were not  
8 without merit. Indeed, in an order filed July 3, 2013, the Court granted in part defendants'  
9 motion to sever, filed May 10, 2013, thereby severing from the above-titled action and  
10 remanding to state court the claims brought by eight of the thirteen named plaintiffs. (See  
11 Order, filed July 3, 2013.)

12 The Court nonetheless recognizes that a motion for sanctions should not be used as  
13 an alternative means for challenging a pleading, see, e.g., MetLife Bank, N.A. v. Badostain,  
14 2010 WL 5559693, \*9-10 (D. Id. December 30, 2010), and here, as noted, defendants had  
15 already filed a motion covering the same subject matter as that addressed in their Rule 11  
16 motion. In contrast to cases wherein the court has awarded attorney's fees to a party  
17 opposing a Rule 11 motion, however, defendants engaged in no conduct evidencing bad  
18 faith or otherwise warranting an award of fees. See, e.g., id. at \*8-9 (holding award of fees  
19 to party opposing Rule 11 motion warranted where motion included misstatements of law  
20 and fact brought to movant's attention prior to filing of motion); see also Safe-Strap Co. v.  
21 Koala Corp., 270 F. Supp. 2d 407, 421 (S.D. N.Y. 2003) (holding award of fees to  
22 prevailing party appropriate where "motion for Rule 11 sanctions is not well grounded in  
23 fact or law, or is filed for an improper purpose").

24 Accordingly, plaintiffs' motion for an award of attorney's fees is hereby DENIED.

25 **IT IS SO ORDERED.**

26  
27 Dated: September 13, 2013

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MAKINE M. CHESNEY  
United States District Judge